

SENATE BILL No. 1043

February 22, 2000, Introduced by Senators SCHWARZ, MC MANUS, YOUNG, NORTH, DE BEAUSSAERT, HAMMERSTROM, VAN REGENMORTER, GOUGEON, JOHNSON, BENNETT, STEIL, GAST and GOSCHKA and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7212, 7214, 7401, 7402, 7403, and 7404 (MCL 333.7212, 333.7214, 333.7401, 333.7402, 333.7403, and 333.7404), section 7212 as amended by 1998 PA 248, section 7214 as amended by 1982 PA 352, section 7401 as amended by 1998 PA 319, sections 7402 and 7404 as amended by 1994 PA 38, and section 7403 as amended by 1996 PA 249, and by adding section 7401b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7212. (1) The following controlled substances are
2 included in schedule 1:

3 (a) Any of the following opiates, including their isomers,
4 esters, the ethers, salts, and salts of isomers, esters, and
5 ethers, unless specifically excepted, when the existence of these

1 isomers, esters, ethers, and salts is possible within the
 2 specific chemical designation:

3	Acetylmethadol	Difenoxin	Noracymethadol
4	Allylprodine	Dimenoxadol	Norlevorphanol
5	Alpha-acetylmethadol	Dimepheptanol	Normethadone
6	Alphameprodine	Dimethylthiambutene	Norpipanone
7	Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
8	Benzethidine	Dipipanone	Phenampramide
9	Betacetylmethadol	Ethylmethylthiambutene	Phenomorphin
10	Betameprodine	Etonitazene	Phenoperidine
11	Betamethadol	Etoxadine	Piritramide
12	Betaprodine	Furethidine	Proheptazine
13	Clonitazene	Hydroxypethidine	Properidine
14	Dextromoramide	Ketobemidone	Propiram
15	Diampramide	Levomoramide	Racemoramide
16	Diethylthiambutene	Levophenacymorphin	Trimeperidine
17		Morpheridine	

18
 19 (b) Any of the following opium derivatives, their salts,
 20 isomers, and salts of isomers, unless specifically excepted, when
 21 the existence of these salts, isomers, and salts of isomers is
 22 possible within the specific chemical designation:

23

24	Acetorphine	Drotebanol	Morphine-N-Oxide
25	Acetyldihydrocodeine	Etorphine	Myrophine
26	Benzylmorphine	Heroin	Nicocodeine
27	Codeine methylbromide	Hydromorphinol	Nicomorphine
28	Codeine-N-Oxide	Methyl-desorphine	Normorphine
29	Cyprenorphine	Methyldihydromorphine	Pholcodine
30	Desomorphine	Morphine methylbromide	Thebacon
31	Dihydromorphine	Morphine methylsulfonate	

32

33 (c) Any material, compound, mixture, or preparation which
 34 contains any quantity of the following hallucinogenic substances,
 35 their salts, isomers, and salts of isomers, unless specifically
 36 excepted, when the existence of these salts, isomers, and salts
 37 of isomers is possible within the specific chemical designation:

38

39 2-Methylamino-1-phenylpropan-1-one
 40 Some trade and other names:

- 1 Methcathinone
- 2 Cat
- 3 Ephedrone
- 4 3, 4-methylenedioxy amphetamine
- 5 5-methoxy-3, 4-methylenedioxy
- 6 amphetamine
- 7 3, 4, 5-trimethoxy amphetamine
- 8 Bufotenine
- 9 Some trade and other names:
- 10 3-(B-dimethylaminoethyl)-5 hydroxyindole
- 11 3-(2-dimethylaminoethyl)-5 indolol
- 12 N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine
- 13 Mappine
- 14 2, 5-Dimethoxyamphetamine
- 15 Some trade or other names:
- 16 2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA
- 17 4-Bromo-2, 5-Dimethoxyamphetamine
- 18 Some trade or other names:
- 19 4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo
- 20 2,5-DMA
- 21 Diethyltryptamine
- 22 Some trade and other names:
- 23 N,N-Diethyltryptamine; DET
- 24 Dimethyltryptamine
- 25 Some trade or other names:
- 26 DMT
- 27 4-methyl-2, 5-dimethoxyamphetamine
- 28 Some trade and other names:

- 1 4-methyl-2, 5-dimethoxy-a-methyl-phenethylamine
- 2 DOM, STP
- 3 4-methoxyamphetamine
- 4 Some trade or other names:
- 5 4-methoxy-a-methylphenethylamine; paramethoxy amphetamine;
- 6 PMA
- 7 Ibogaine
- 8 Some trade and other names:
- 9 7-Ethyl-6,6a,7,8,9,10,12,13
- 10 Octahydro-2-methoxy-6,9-methano-5H-
- 11 pyrido (1, 2:1, 2 azepino 4, 5-b) indole
- 12 tabernanthe iboga
- 13 Lysergic acid diethylamide
- 14 Marihuana, except as otherwise provided in subsection (2)
- 15 Mecloqualone
- 16 Mescaline
- 17 Peyote
- 18 N-ethyl-3 piperidyl benzilate
- 19 N-methyl-3 piperidyl benzilate
- 20 Psilocybin
- 21 Psilocyn
- 22 Thiophene analog of phencyclidine
- 23 Some trade or other names:
- 24 1-(1-(2-thienyl)cyclohexyl) piperidine)
- 25 2-thienyl analog of phencyclidine; TCP
- 26

1 (d) Except as provided in subsection (2), synthetic
2 equivalents of the substances contained in the plant, or in the
3 resinous extractives of cannabis and synthetic substances, deriv-
4 atives, and their isomers with similar chemical structure or
5 pharmacological activity, or both, such as the following, are
6 included in schedule 1:

7 (i) Δ <UP1> cis or trans tetrahydrocannabinol, and their optical
8 isomers.

9 (ii) Δ <UP6> cis or trans tetrahydrocannabinol, and their opti-
10 cal isomers.

11 (iii) Δ <UP3>,<UP4>, cis or trans tetrahydrocannabinol, and their
12 optical isomers.

13 (e) Compounds of structures of substances referred to in
14 subdivision (d), regardless of numerical designation of atomic
15 positions, are included.

16 (f) Gamma-hydroxybutyrate and any isomer, salt, or salt of
17 isomer of gamma-hydroxybutyrate.

18 Some trade and other names:

19 Sodium oxybate

20 4-hydroxybutanoic acid monosodium salt

21 (G) ANY SUBSTANCE THAT CONTAINS ANY QUANTITY OF METHAMPHET-
22 AMINE, INCLUDING ITS SALTS, STEREOISOMERS, AND SALTS OF
23 STEREOISOMERS.

24 (2) Marihuana and the substances described in subsection (1)
25 (d) and (e) in schedule 1 shall be regulated as provided in
26 schedule 2, if they are dispensed in the manner provided in
27 sections 7335 and 7336.

1 (3) For purposes of subsection (1), "isomer" includes the
2 optical, position, and geometric isomers.

3 Sec. 7214. The following controlled substances are included
4 in schedule 2:

5 (a) Any of the following substances, except those narcotic
6 drugs listed in other schedules, whether produced directly or
7 indirectly by extraction from substances of vegetable origin, or
8 independently by means of chemical synthesis, or by combination
9 of extraction and chemical synthesis:

10 (i) Opium and opiate, and any salt, compound, derivative, or
11 preparation of opium or opiate excluding nalaxone and its salts,
12 and excluding naltrexone and its salts, but including the
13 following:

14

- | | | |
|----|----------------------|-------------------------|
| 15 | Raw opium | Etorphine hydrochloride |
| 16 | Opium extracts | Hydrocodone |
| 17 | Opium Fluid-extracts | Hydromorphone |
| 18 | Powdered opium | Metopon |
| 19 | Granulated opium | Morphine |
| 20 | Tincture of opium | Oxycodone |
| 21 | Codeine | Oxymorphone |
| 22 | Ethylmorphine | Thebaine |

23 (ii) A salt, compound, derivative, or preparation thereof
24 which is chemically equivalent to or identical with a substance
25 referred to in subdivision (a), except that these substances do
26 not include the isoquinoline alkaloids of opium.

27 (iii) Opium poppy, poppy straw, and concentrate of poppy
28 straw, the crude extract of poppy straw in either liquid, solid,
29 or powder form, which contains the phenanthrene alkaloids of the
30 opium poppy.

1 (iv) Coca leaves and any salt, compound, derivative, or
 2 preparation thereof which is chemically equivalent to or
 3 identical with any of these substances, except that the sub-
 4 stances do not include decocainized coca leaves or extraction of
 5 coca leaves which extractions do not contain cocaine or
 6 ecgonine. The substances include cocaine, its salts, stereois-
 7 mers, and salts of stereoisomers when the existence of the salts,
 8 stereoisomers, and salts of stereoisomers is possible within the
 9 specific chemical designation.

10 (b) Any of the following opiates, including their isomers,
 11 esters, ethers, salts, and salts of isomers, when the existence
 12 of these isomers, esters, ethers, and salts is possible within
 13 the specific chemical designation:

14

15	Alphaprodine	Fentanyl
16	Anileridine	Isomethadone
17	Bezitramide	Levomethorphan
18	Dihydrocodeine	Levorphanol
19	Diphenoxylate	Metazocine
20		Methadone
21	Methadone-Intermediate, 4-cyano-2dimethylamino-4,	
22	4-diphenyl butane	
23	Moramide-Intermediate, 2-methyl-3-morpholino-1,	
24	1-diphenylpropane-carboxylic acid	
25	Pethidine	
26	Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine	
27	Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate	
28	Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-	
29	4-carboxylic acid	
30	Phenazocine	Racemethorphan

1 a prescription form, an official prescription form, or a
2 counterfeit prescription form. A practitioner licensed by the
3 administrator under this article shall not dispense, prescribe,
4 or administer a controlled substance for other than legitimate
5 and professionally recognized therapeutic or scientific purposes
6 or outside the scope of practice of the practitioner, licensee,
7 or applicant.

8 (2) A person who violates this section as to:

9 (a) A controlled substance classified in schedule 1 or 2
10 that is a narcotic drug or a drug described in SECTION 7212(1)(G)
11 OR section 7214(a)(iv) and:

12 (i) Which is in an amount of 650 grams or more of any mix-
13 ture containing that substance is guilty of a felony punishable
14 by imprisonment for life or any term of years but not less than
15 20 years.

16 (ii) Which is in an amount of 225 grams or more, but less
17 than 650 grams, of any mixture containing that substance is
18 guilty of a felony and shall be imprisoned for not less than 20
19 years nor more than 30 years.

20 (iii) Which is in an amount of 50 grams or more, but less
21 than 225 grams, of any mixture containing that substance is
22 guilty of a felony and shall be imprisoned for not less than 10
23 years nor more than 20 years.

24 (iv) Which is in an amount less than 50 grams, of any mix-
25 ture containing that substance is guilty of a felony and shall be
26 imprisoned for not less than 1 year nor more than 20 years, and

1 may be fined not more than \$25,000.00, or placed on probation for
2 life.

3 (b) Any other controlled substance classified in schedule 1,
4 2, or 3, except marihuana is guilty of a felony punishable by
5 imprisonment for not more than 7 years or a fine of not more than
6 \$10,000.00, or both.

7 (c) A substance classified in schedule 4 is guilty of a
8 felony punishable by imprisonment for not more than 4 years or a
9 fine of not more than \$2,000.00, or both.

10 (d) Marihuana or a mixture containing marihuana is guilty of
11 a felony punishable as follows:

12 (i) If the amount is 45 kilograms or more, or 200 plants or
13 more, by imprisonment for not more than 15 years or a fine of not
14 more than \$10,000,000.00, or both.

15 (ii) If the amount is 5 kilograms or more but less than 45
16 kilograms, or 20 plants or more but fewer than 200 plants, by
17 imprisonment for not more than 7 years or a fine of not more than
18 \$500,000.00, or both.

19 (iii) If the amount is less than 5 kilograms or fewer than
20 20 plants, by imprisonment for not more than 4 years or a fine of
21 not more than \$20,000.00, or both.

22 (e) A substance classified in schedule 5 is guilty of a
23 felony punishable by imprisonment for not more than 2 years or a
24 fine of not more than \$2,000.00, or both.

25 (f) An official prescription form or a counterfeit official
26 prescription form is guilty of a felony punishable by

1 imprisonment for not more than 20 years or a fine of not more
2 than \$25,000.00, or both.

3 (g) A prescription form or a counterfeit prescription form
4 other than an official prescription form or a counterfeit offi-
5 cial prescription form is guilty of a felony punishable by
6 imprisonment for not more than 7 years or a fine of not more than
7 \$5,000.00, or both.

8 (3) A term of imprisonment imposed ~~pursuant to~~ UNDER sub-
9 section (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv)
10 shall be imposed to run consecutively with any term of imprison-
11 ment imposed for the commission of another felony. An individual
12 subject to a mandatory term of imprisonment under subsection
13 (2)(a) or section 7403(2)(a)(i), (ii), (iii), or (iv) ~~shall~~ IS
14 not ~~be~~ eligible for probation, suspension of that sentence, or
15 parole during that mandatory term, except ~~and only~~ to the
16 extent that those provisions permit probation for life, and shall
17 not receive a reduction in that mandatory term of imprisonment by
18 disciplinary credits or any other type of sentence credit
19 reduction.

20 (4) The court may depart from the minimum term of imprison-
21 ment authorized under subsection (2)(a)(ii), (iii), or (iv) if
22 the court finds on the record that there are substantial and com-
23 pelling reasons to do so. In addition, if any of the following
24 apply, the court may depart from the minimum term of imprisonment
25 authorized under subsection (2)(a)(ii), (iii), or (iv) if the
26 individual has not previously been convicted of a felony or an
27 assaultive crime and has not been convicted of another felony or

1 assaultive crime arising from the same transaction as the
2 violation of this section:

3 (a) The person is within the jurisdiction of the circuit
4 court under section 606 of the revised judicature act of 1961,
5 1961 PA 236, MCL 600.606, or section 4 of chapter XIIIA of THE
6 PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.4.

7 (b) The person is being sentenced under section 18(1)(n) of
8 chapter XIIIA of THE PROBATE CODE OF 1939, 1939 PA 288, MCL
9 712A.18.

10 (5) As used in this section:

11 (a) "Assaultive crime" means a violation of ~~chapter XI~~
12 SECTIONS 81 TO 90 of the Michigan penal code, 1931 PA 328, MCL
13 750.81 to 750.90.

14 (b) "Plant" means a marihuana plant that has produced coty-
15 ledons or a cutting of a marihuana plant that has produced
16 cotyledons.

17 SEC. 7401B. (1) A PERSON SHALL NOT DO ANY OF THE
18 FOLLOWING:

19 (A) OWN, POSSESS, OR USE A BUILDING, STRUCTURE, PLACE, OR
20 AREA AS A LOCATION TO MANUFACTURE A CONTROLLED SUBSTANCE IN VIO-
21 LATION OF SECTION 7401.

22 (B) OWN OR POSSESS ANY CHEMICAL OR ANY LABORATORY EQUIPMENT
23 THAT HE OR SHE KNOWS OR HAS REASON TO KNOW IS TO BE USED FOR THE
24 PURPOSE OF MANUFACTURING A CONTROLLED SUBSTANCE IN VIOLATION OF
25 SECTION 7401.

26 (C) PROVIDE ANY CHEMICAL OR LABORATORY EQUIPMENT TO ANOTHER
27 PERSON KNOWING OR HAVING REASON TO KNOW THAT THE OTHER PERSON

1 INTENDS TO USE THAT CHEMICAL OR LABORATORY EQUIPMENT FOR THE
2 PURPOSE OF MANUFACTURING A CONTROLLED SUBSTANCE IN VIOLATION OF
3 SECTION 7401.

4 (2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
5 PUNISHABLE AS FOLLOWS:

6 (A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) TO (E), BY
7 IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT MORE
8 THAN \$100,000.00, OR BOTH.

9 (B) IF THE VIOLATION IS COMMITTED IN THE PRESENCE OF A
10 MINOR, BY IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A FINE OF
11 NOT MORE THAN \$100,000.00, OR BOTH.

12 (C) IF THE VIOLATION INVOLVES THE UNLAWFUL GENERATION,
13 TREATMENT, STORAGE, OR DISPOSAL OF A HAZARDOUS WASTE, BY IMPRIS-
14 ONMENT FOR NOT MORE THAN 20 YEARS OR A FINE OF NOT MORE THAN
15 \$100,000.00, OR BOTH.

16 (D) IF THE VIOLATION OCCURS WITHIN 500 FEET OF A RESIDENCE,
17 BUSINESS ESTABLISHMENT, SCHOOL PROPERTY, OR CHURCH OR OTHER HOUSE
18 OF WORSHIP, BY IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A FINE
19 OF NOT MORE THAN \$100,000.00, OR BOTH.

20 (E) IF THE VIOLATION INVOLVES THE POSSESSION, PLACEMENT, OR
21 USE OF A FIREARM OR ANY OTHER DEVICE DESIGNED OR INTENDED TO BE
22 USED TO INJURE ANOTHER PERSON, BY IMPRISONMENT FOR NOT MORE THAN
23 25 YEARS OR A FINE OF NOT MORE THAN \$100,000.00, OR BOTH.

24 (3) SUBDIVISIONS (A) TO (D) OF SUBSECTION (2) DO NOT APPLY
25 TO A VIOLATION INVOLVING THE MANUFACTURING OF MARIHUANA ONLY.

26 (4) THIS SECTION DOES NOT PROHIBIT THE PERSON FROM BEING
27 CHARGED WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION

1 OF LAW COMMITTED BY THAT PERSON WHILE VIOLATING OR ATTEMPTING TO
2 VIOLATE THIS SECTION.

3 (5) A TERM OF IMPRISONMENT IMPOSED UNDER THIS SECTION MAY BE
4 SERVED CONSECUTIVELY TO ANY OTHER TERM OF IMPRISONMENT IMPOSED
5 FOR A VIOLATION OF LAW ARISING OUT OF THE SAME TRANSACTION.

6 (6) THE COURT MAY, AS A CONDITION OF SENTENCE, ORDER A
7 PERSON CONVICTED OF A VIOLATION PUNISHABLE UNDER SUBSECTION
8 (4)(C) TO PAY RESPONSE ACTIVITY COSTS ARISING OUT OF THE
9 VIOLATION.

10 (7) AS USED IN THIS SECTION:

11 (A) "HAZARDOUS WASTE" MEANS THAT TERM AS DEFINED IN SECTION
12 11103 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
13 1994 PA 451, MCL 324.11103.

14 (B) "LABORATORY EQUIPMENT" MEANS ANY EQUIPMENT, DEVICE, OR
15 CONTAINER USED OR INTENDED TO BE USED IN THE PROCESS OF MANUFAC-
16 TURING A CONTROLLED SUBSTANCE.

17 (C) "MINOR" MEANS AN INDIVIDUAL LESS THAN 18 YEARS OF AGE.

18 (D) "RESPONSE ACTIVITY COSTS" MEANS THAT TERM AS DEFINED IN
19 SECTION 20101 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTEC-
20 TION ACT, 1994 PA 451, MCL 324.20101.

21 (E) "SCHOOL PROPERTY" MEANS THAT TERM AS DEFINED IN SECTION
22 7410.

23 (F) "VEHICLE" MEANS THAT TERM AS DEFINED IN SECTION 79 OF
24 THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.79.

25 Sec. 7402. (1) Except as authorized by this article, a
26 person shall not create, manufacture, deliver, or possess with
27 intent to deliver a counterfeit substance or a controlled

1 substance analogue intended for human consumption. This section
2 does not apply to a person who manufactures or distributes a sub-
3 stance in conformance with the provisions of an approved new drug
4 application or an exemption for investigational use within the
5 meaning of section 505 of the federal food, drug, and cosmetic
6 act, 21 U.S.C. 355. For purposes of this section, section 505 of
7 the federal food, drug, and cosmetic act shall be applicable to
8 the introduction or delivery for introduction of any new drug
9 into intrastate, interstate, or foreign commerce.

10 (2) A person who violates this section as to:

11 (a) A counterfeit substance classified in schedule 1 or 2
12 which is either a narcotic drug or described in SECTION
13 7212(1)(G) OR section 7214(a)(iv), is guilty of a felony, punish-
14 able by imprisonment for not more than 10 years, or a fine of not
15 more than \$10,000.00, or both.

16 (b) Any other counterfeit substance classified in schedule
17 1, 2, or 3, is guilty of a felony, punishable by imprisonment for
18 not more than 5 years, or a fine of not more than \$5,000.00, or
19 both.

20 (c) A counterfeit substance classified in schedule 4, is
21 guilty of a felony, punishable by imprisonment for not more than
22 4 years, or a fine of not more than \$2,000.00, or both.

23 (d) A counterfeit substance classified in schedule 5, is
24 guilty of a felony, punishable by imprisonment for not more than
25 2 years, or a fine of not more than \$2,000.00, or both.

1 (e) A controlled substance analogue, is guilty of a felony,
2 punishable by imprisonment for not more than 15 years, or a fine
3 of not more than \$250,000.00, or both.

4 Sec. 7403. (1) A person shall not knowingly or intention-
5 ally possess a controlled substance, a controlled substance anal-
6 ogue, or an official prescription form or a prescription form
7 unless the controlled substance, controlled substance analogue,
8 official prescription form, or prescription form was obtained
9 directly from, or pursuant to, a valid prescription or order of a
10 practitioner while acting in the course of the practitioner's
11 professional practice, or except as otherwise authorized by this
12 article.

13 (2) A person who violates this section as to:

14 (a) A controlled substance classified in schedule 1 or 2
15 that is a narcotic drug or a drug described in SECTION 7212(1)(G)
16 OR section 7214(a)(iv), and:

17 (i) Which is in an amount of 650 grams or more of any mix-
18 ture containing that substance is guilty of a felony and shall be
19 imprisoned for life except as otherwise provided in this
20 subparagraph. A person convicted of violating this subparagraph
21 may be punished as provided by law by imposing a sentence of
22 imprisonment for any term of years but not less than 25 years if
23 any of the following apply:

24 (A) The person is within the jurisdiction of the circuit
25 court ~~or recorder's court of the city of Detroit~~ under
26 section 606 of the revised judicature act of 1961, ~~Act No. 236~~
27 ~~of the Public Acts of 1961, being section 600.606 of the Michigan~~

1 ~~Compiled Laws~~ 1961 PA 236, MCL 600.606, OR section 4 of chapter
2 XIIIA of ~~Act No. 288 of the Public Acts of 1939, being~~
3 ~~section 712A.4 of the Michigan Compiled Laws, or~~
4 ~~section 10a(1)(c) of Act No. 369 of the Public Acts of 1919,~~
5 ~~being section 725.10a of the Michigan Compiled Laws~~ THE PROBATE
6 CODE OF 1939, 1939 PA 288, MCL 712A.4.

7 (B) The person is being sentenced under section 18(1)(n) of
8 chapter XIIIA of ~~Act No. 288 of the Public Acts of 1939, being~~
9 ~~section 712A.18 of the Michigan Compiled Laws~~ THE PROBATE CODE
10 OF 1939, 1939 PA 288, MCL 712A.18.

11 (ii) Which is in an amount of 225 grams or more, but less
12 than 650 grams, of any mixture containing that substance is
13 guilty of a felony and shall be imprisoned for not less than 20
14 years nor more than 30 years.

15 (iii) Which is in an amount of 50 grams or more, but less
16 than 225 grams, of any mixture containing that substance is
17 guilty of a felony and shall be imprisoned for not less than 10
18 years nor more than 20 years.

19 (iv) Which is in an amount of 25 grams or more, but less
20 than 50 grams of any mixture containing that substance is guilty
21 of a felony and shall be imprisoned for not less than 1 year and
22 not more than 4 years, and may be fined not more than \$25,000.00
23 or placed on probation for life.

24 (v) Which is in an amount less than 25 grams of any mixture
25 containing that substance is guilty of a felony punishable by
26 imprisonment for not more than 4 years or a fine of not more than
27 \$25,000.00, or both.

1 (b) A controlled substance classified in schedule 1, 2, 3,
2 or 4, except a controlled substance for which a penalty is pre-
3 scribed in subdivision (a), (c), or (d), or a controlled sub-
4 stance analogue is guilty of a felony punishable by imprisonment
5 for not more than 2 years or a fine of not more than \$2,000.00,
6 or both.

7 (c) Lysergic acid diethylamide, peyote, mescaline, dimethyl-
8 tryptamine, psilocyn, psilocybin, or a controlled substance clas-
9 sified in schedule 5, is guilty of a misdemeanor punishable by
10 imprisonment for not more than 1 year or a fine of not more than
11 \$2,000.00, or both.

12 (d) Marihuana, is guilty of a misdemeanor punishable by
13 imprisonment for not more than 1 year or a fine of not more than
14 \$2,000.00, or both.

15 (e) An official prescription form, is guilty of a felony
16 punishable by imprisonment for not more than 1 year or a fine of
17 not more than \$2,000.00, or both.

18 (f) A prescription form other than an official prescription
19 form, is guilty of a misdemeanor punishable by imprisonment for
20 not more than 1 year or a fine of not more than \$1,000.00, or
21 both.

22 (3) The court may depart from the minimum term of imprison-
23 ment authorized under subsection (2)(a)(*ii*), (*iii*), or (*iv*) if
24 the court finds on the record that there are substantial and com-
25 pelling reasons to do so. In addition, if any of the following
26 apply, the court may depart from the minimum term of imprisonment
27 authorized under subsection (2)(a)(*ii*), (*iii*), or (*iv*) if the

1 individual has not previously been convicted of a felony or an
2 assaultive crime and has not been convicted of another felony or
3 assaultive crime arising from the same transaction as the viola-
4 tion of this section:

5 (a) The person is within the jurisdiction of the circuit
6 court ~~or recorder's court of the city of Detroit~~ under
7 section 606 of the revised judicature act of 1961, ~~Act No. 236~~
8 of the Public Acts of 1961, being section ~~600.606~~ of the Michigan
9 ~~Compiled Laws~~ 1961 PA 236, MCL 600.606, OR section 4 of chapter
10 XIIIA of ~~Act No. 288 of the Public Acts of 1939, being~~
11 ~~section 712A.4 of the Michigan Compiled Laws, or~~
12 ~~section 10a(1)(c) of Act No. 369 of the Public Acts of 1919,~~
13 being section 725.10a of the Michigan Compiled Laws THE PROBATE
14 CODE OF 1939, 1939 PA 288, MCL 712A.4.

15 (b) The person is being sentenced under section 18(1)(n) of
16 chapter XIIIA of ~~Act No. 288 of the Public Acts of 1939, being~~
17 ~~section 712A.18 of the Michigan Compiled Laws~~ THE PROBATE CODE
18 OF 1939, 1939 PA 288, MCL 712A.18.

19 (4) As used in subsection (3), "assaultive crime" means a
20 violation of ~~chapter XI~~ SECTIONS 81 TO 90 of the Michigan penal
21 code, ~~Act No. 328 of the Public Acts of 1931, being sections~~
22 ~~750.81 to 750.90 of the Michigan Compiled Laws~~ 1931 PA 328, MCL
23 750.81 TO 750.90.

24 Sec. 7404. (1) A person shall not use a controlled sub-
25 stance or controlled substance analogue unless the substance was
26 obtained directly from, or pursuant to, a valid prescription or
27 order of a practitioner while acting in the course of the

1 practitioner's professional practice, or except as otherwise
2 authorized by this article.

3 (2) A person who violates this section as to:

4 (a) A controlled substance classified in schedule 1 or 2 is
5 a narcotic drug or a drug described in SECTION 7212(1)(G) OR sec-
6 tion 7214(a)(iv) is guilty of a misdemeanor punishable by impris-
7 onment for not more than 1 year, or a fine of not more than
8 \$2,000.00, or both.

9 (b) A controlled substance classified in schedule 1, 2, 3,
10 or 4, except a controlled substance for which a penalty is pre-
11 scribed in subdivision (a), (c), or (d), or a controlled sub-
12 stance analogue is guilty of a misdemeanor, punishable by impris-
13 onment for not more than 1 year, or a fine of not more than
14 \$1,000.00, or both.

15 (c) Lysergic acid diethylamide, peyote, mescaline, dimethyl-
16 tryptamine, psilocyn, psilocybin, or a controlled substance clas-
17 sified in schedule 5, is guilty of a misdemeanor, punishable by
18 imprisonment for not more than 6 months, or a fine of not more
19 than \$500.00, or both.

20 (d) Marihuana, is guilty of a misdemeanor, punishable by
21 imprisonment for not more than 90 days, or a fine of not more
22 than \$100.00, or both.